

(c) The requirement is at or below the micropurchase threshold.

§ 126.606 May a contracting officer request that SBA release an 8(a) requirement for award as a HUBZone contract?

Yes. However, SBA will grant its consent only where neither the incumbent nor any other 8(a) participant(s) can perform the requirement, and where the section 8(a) program will not be adversely affected. The SBA official authorized to grant such consent is the AA/8(a)BD.

§ 126.607 When must a contracting officer set aside a requirement for qualified HUBZone SBCs?

(a) The contracting officer first must review a requirement to determine whether it is excluded from HUBZone contracting pursuant to § 126.605.

(b) The contracting officer must identify qualified HUBZone 8(a) concerns and other 8(a) concerns. The contracting officer must give first priority to qualified HUBZone 8(a) concerns.

(c) After determining that neither paragraph (a) or (b) of this section apply, the contracting officer must set aside the requirement for competition restricted to qualified HUBZone SBCs if the contracting officer:

(1) Has a reasonable expectation, after reviewing SBA's list of qualified HUBZone SBCs that at least two responsible qualified HUBZone SBCs will submit offers; and

(2) Determines that award can be made at fair market price.

§ 126.608 Are there HUBZone contracting opportunities below the simplified acquisition threshold?

Yes. If the requirement is below the simplified acquisition threshold, the contracting officer should set-aside the requirement for consideration among qualified HUBZone SBCs using simplified acquisition procedures.

§ 126.609 What must the contracting officer do if a contracting opportunity does not exist for competition among qualified HUBZone SBCs?

If a contract opportunity for competition among qualified SBCs does not exist under the provisions of § 126.607,

the contracting officer must first consider the possibility of making an award to a qualified HUBZone SBC on a sole source basis, and then to a small business under small business set-aside procedures, in that order of precedence. If the criteria are not met for any of these special contracting authorities, then the contracting officer may solicit the procurement through another appropriate contracting method.

§ 126.610 May SBA appeal a contracting officer's decision not to reserve a procurement for award as a HUBZone contract?

The Administrator may appeal a contracting officer's decision not to make a particular requirement available for award as a HUBZone sole source or a HUBZone set-aside contract.

§ 126.611 What is the process for such an appeal?

(a) *Notice of appeal.* When the contracting officer rejects a recommendation by SBA's Procurement Center Representative to make a requirement available for award as a HUBZone contract, he or she must notify the Procurement Center Representative as soon as practicable. If the Administrator intends to appeal the decision, SBA must notify the contracting officer no later than five business days after receiving notice of the contracting officer's decision.

(b) *Suspension of action.* Upon receipt of notice of SBA's intent to appeal, the contracting officer must suspend further action regarding the procurement until the head of the contracting activity issues a written decision on the appeal, unless the head of the contracting activity makes a written determination that urgent and compelling circumstances which significantly affect the interests of the United States compel award of the contract.

(c) *Deadline for appeal.* Within 15 business days of SBA's notification to the contracting officer, SBA must file its formal appeal with the head of the contracting activity or that agency may consider the appeal withdrawn.

(d) *Decision.* The contracting activity must specify in writing the reasons for a denial of an appeal brought under this section.